

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JAROMIR KOVARICK

v.

**GROUNDWATER & ENVIRONMENTAL
SERVICES, INC., et al.**

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**CIVIL ACTION
No. 24-680**

ORDER

This 31st day of July, 2024, for the reasons that follow, it is hereby **ORDERED** that Defendant Energy Transfer Operating L.P.’s Motion to Dismiss (ECF 16) is **DENIED**.

Defendant Energy Transfer Operating L.P. (ETO) makes superficially compelling arguments that it does not qualify as an “employer” under the Pipeline Safety Improvement Act (PSIA), 49 U.S.C. § 60129.¹ Although ETO provides evidence that they are not the permit holder of the ME2 pipeline, neither party points to any controlling case law on the application of the PSIA’s definition of employer or what is required to be an owner of a pipeline. At this stage of the case, this issue requires further factual development before resolution.

Plaintiff sufficiently pleads facts to survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6), as set forth by the Third Circuit in *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210 (3d Cir. 2009). Plaintiff Jaromir Kovarick’s Complaint alleges that ETO is the owner or operator of the ME2 pipeline facility and provides several publicly available websites where ETO

¹ Plaintiff’s sole claim for relief sounds in the PSIA. An entity may only be sued under the PSIA if they are an “employer” under the meaning of the statute. The PSIA defines “employer” as “a person owning or operating a pipeline facility” or “a contractor or subcontractor of such a person.” 49 U.S.C. § 60129(a)(2).

holds itself out as the “owner and operator” of the pipeline.² He further pleads in the alternative that ETO is a contractor or subcontractor. Am. Compl. ¶¶ 44-47, ECF 13. Taking these allegations as true, I must deny Defendant ETO’s Motion to Dismiss.

/s/ Gerald Austin McHugh
United States District Judge

² Plaintiff links three public websites where ETO makes statements that seem to assert its ownership over the ME2 pipeline facility. Am. Compl. ¶ 46. For instance, “Energy Transfer and Sunoco currently operate approximately 3,000 miles of pipelines in Pennsylvania,” and “Energy Transfer owns and operates more than 86,000 miles of pipeline In fact, Energy Transfer owns the former Sunoco Logistics” See *Energy Transfer in Pennsylvania*, Energy Transfer Ne., <https://energytransfereast.com/about/energy-transfer-in-pennsylvania/> (last visited July 30, 2024), and *Mariner East Pipeline System Fact Sheet*, Energy Transfer (2019), https://www.energytransfer.com/wp-content/uploads/2020/04/2019_New_ME_Fact_Sheet_8.pdf.